

1  
2  
3  
4  
5 UNITED STATES DISTRICT COURT  
6 DISTRICT OF NEVADA

7 \* \* \*

8 BRANCH BANKING AND TRUST  
9 COMPANY,

10 Plaintiff,

11 v.

12 D.M.S.I., L.L.C., *et al.*,

13 Defendants.

Case No. 2:11-cv-01778-APG-VCF

**ORDER**

14 On May 16, 2013, Magistrate Judge Cam Ferenbach entered his Report and  
15 Recommendation [Dkt. #74] recommending that Defendants' Amended Motion to Extend  
16 Deadline to Amend Answer and For Leave to File Amended Answer and Counterclaim  
17 [Dkt. #54] be denied. On June 3, 2013, Defendants filed their Objection [Dkt. #79] to  
18 that Recommendation. On June 20, 2013, Plaintiff filed its Response [Dkt. #88] to  
19 Defendants' Objection.

20 Defendants' Objection is incorrectly based upon LR-IB 3-2. That Rule addresses  
21 recommendations of a Magistrate Judge made pursuant to LR-IB 1-4, 1-5, 1-6, and 1-7.  
22 However, because Magistrate Judge Ferenbach's Recommendation is a determination  
23 of a pretrial matter not specifically enumerated as an exception in 28 U.S.C. §  
24 636(b)(1)(A), it is a determination made pursuant to LR-IB 1-3. Accordingly, review of  
25 that Recommendation is based upon LR-IB 3-1. Because Magistrate Judge Ferenbach's  
26  
27  
28

1 Recommendation is not “clearly erroneous or contrary to law,” it is hereby affirmed.<sup>1</sup> For  
2 the foregoing reasons, Defendants’ Objection to the May 16, 2013 Report and  
3 Recommendation is hereby DENIED. The Report and Recommendation [Dkt. #74] is  
4 affirmed in its entirety.

5 Dated: June 21, 2013



6  
7 ANDREW P. GORDON  
UNITED STATES DISTRICT JUDGE  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

---

25 <sup>1</sup> Even if review of the Recommendation was made pursuant to LR-IB 3-2, a *de*  
26 *novo* determination of that Recommendation still would lead to the affirmation of the  
27 Recommendation. The facts and arguments set forth in Plaintiff’s Response [Dkt. #88]  
28 are persuasive and would be adopted by the Court. Particularly, Defendants’ primary  
excuse for missing the applicable deadline is that Defendants and their counsel were  
very busy. This does not constitute “good cause” pursuant to Fed. R. Civ. P. 16.